



Town of Tyngsborough
Zoning Board of Appeals
Town Hall-25 Bryants Lane
Tyngsborough, MA 01879-1003
(978) 649-2300, Ext. 115

TYNGSBOROUGH ZONING BOARD OF APPEALS MINUTES
May 8, 2014
APPROVED

Attachments:

1. Meeting Agenda
2. 7 Mackey Dr. ZBA Application – 4/14/14
3. 7 Mackey Dr. Tyngsborough Dept. Comments
4. 54 Mission Rd. ZBA Application – 4/14/14
5. 54 Mission Rd. Tyngsborough Dept. Comments
6. 47 Flint Rd. ZBA Application – 4/15/14
7. 47 Flint Rd. Tyngsborough Dept. Comments
8. 1 Upton Dr. letter of support for 47 Flint Rd. project – 5/8/14
9. 43 Flint Rd. letter of support for 47 Flint Rd. project – 5/8/14
10. 22A Flint Rd. letter of support for 47 Flint Rd. project – 5/6/14
11. 10 Upton Dr. letter of support for 47 Flint Rd. project – 5/8/14
12. Hearing Continuance Form for 125-135 Middlesex Rd. (Tyngsboro Crossing) – 5/8/14
13. Deschenes & Farrell Continuance Request for 125-135 Middlesex Rd. (Tyngsboro Commons) – 5/1/14

Members Present: Claire Cloutier - Chairman
Cheryl Bradley
Christine Mechalides
Joe Polin
Scott Bordeleau
Pamela Berman, Administrative Assistant

Members Absent: Robb Kydd – Vice Chairman

6:30pm Meeting was called to order by Chairman C. Cloutier

Public Hearing #1

7 Mackey Dr. (M14, P32, L6) – Christopher & Heather Monti applicants, request for a variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws (side yard setback), to construct a 24' x 28' garage/family room addition in an R-1 Zone. *Advertised in the Lowell Sun Thursday April 24, 2014 and Thursday May 1, 2014.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list

S. Bordeleau: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Application Presentation by Application/Designee

Homeowner Chris Monti appeared before the Board. Mr. Monti explained that he wishes to construct a 2-car garage with a family room addition above the garage. He stressed that the hardship exists with the odd shape of the lot restricting where he can put the addition. He went on to submit a letter of support from the direct abutter at 11 Mackey Dr. There were no other abutters present to speak for or against this project.

J. Polin: Motion to close the public portion of the hearing.

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- Board members felt comfortable with the project knowing that the neighbor most impacted by the project was in support of it.
- The Board also stressed that the height of the addition should not exceed 36'.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: No comments at this time.

Conservation Commission: None

Sewer Dept.: None

Planning Board: None

Board of Health: None

Fire Dept.: None

Highway Dept.: None

Tax Collector: None

C. Mechalides: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for 7 Mackey Dr. from certain dimensional requirements in an R-1 Zone.

J. Polin: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

2.12.50 Table of Standard Dimensional Requirements; R-2 Zone (20,000s.f. min. lot area; 75 ft. frontage; 50 lin. ft. lot width; 30 lin. ft. front yard setback; 20 lin. ft. side yard setback; 20 lin. ft. rear yard setback; not to exceed 2 ½ stories at 36 lin. ft.).

Motion to **APPROVE**; Assessors Map 14, Parcel 32, Lot 6 request for a **Variance** from the requirements of the Zoning By-Laws for side yard setback in a R-1 Zone from the required 30ft. to 20.5ft.(9.5 ft. of relief) not to exceed a maximum building height of 36' on plot plan dated 4/10/14 by Chris Mechalides, seconded by Joe Polin.

5-0, Motion to APPROVE – unanimous

Claire Cloutier	AYE
Scott Bordeleau	AYE
Chris Mechalides	AYE
Cheryl Bradley	AYE
Joe Polin	AYE

Public Hearing #2

54 Mission Rd. (M28, P2, L0) – David Soper & Elizabeth Conroy applicants, request for a variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws (lot size, frontage, front & side setbacks), to construct a new 26' x 38.5' garage/shed addition in an R-1 Zone. *Advertised in the Lowell Sun Thursday April 24, 2014 and Thursday May 1, 2014.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list

J Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Application Presentation by Application/Designee

Applicants David Soper & Elizabeth Conroy appeared before the Board. They explained that they have an existing garage that is unsafe and needs to come down before it collapses. In its place they wish to construct a new garage addition with an attached breezeway. In addition, solar panels will be installed on the garage. There were no abutters present to speak for or against this project.

J. Polin: Motion to close the public portion of the hearing.

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- The Board stressed that the building height should not exceed 36'.
- The Board also noted that there the space above the garage would be for storage and not contain a bathroom.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: No comments at this time.

Conservation Commission: None

Sewer Dept.: None

Planning Board: None

Board of Health: None

Fire Dept.: None

Highway Dept.: None

Tax Collector: None

S. Bordeleau: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for 54 Mission Rd. from certain dimensional requirements in an R-1 Zone.

C. Bradley: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

2.12.50 Table of Standard Dimensional Requirements; R-1 Zone (65,000s.f. min. lot area; 200 ft. frontage; 30 lin. ft. front, side & rear yard; not to exceed 2 ½ stories at 36 lin. ft.).

Motion to **APPROVE**; Assessors Map 28, Parcel 2, Lot 0 request for a **Variance** for requirements of Zoning By-Laws for side yard setback only from required 30 ft. to 2.4ft. (27.6 ft. of relief) not to exceed a maximum building height of 36' on plot plan dated 8/17/11, and with a condition that the area above the garage not be fitted with plumbing, by Scott Bordeleau, seconded by Chris Mechalides.

5-0, Motion to APPROVE – unanimous

Chris Mechalides	AYE
Claire Cloutier	AYE
Scott Bordeleau	AYE
Joe Polin	AYE
Cheryl Bradley	AYE

Public Hearing #3

47 Flint Rd. (M20A, P38, L0) – Mark & Maura Amrich applicants, request for a variance from the requirements of Section 2.12.50 (lot size & front yard setback), and a special permit under Section 2.15.22 & 2.15.24 of the Tyngsborough Zoning By-Laws to construct a 26' x 35.5' 2-story addition. *Advertised in the Lowell Sun Thursday April 24, 2014 and Thursday May 1, 2014.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list

J Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Application Presentation by Application/Designee

Atty. Peter Nicosia appeared before the Board for the applicants. Atty. Nicosia explained that the homeowner's wish to renovate their entire home and part of the renovation is the removal of 2 of the existing bedrooms. They will then build the 2-story addition and put back the 2 bedrooms that were removed in the main house. This configuration will not effect the septic system capacity as they are not adding any new bedrooms. The addition is limited to the pond side of the home due to the septic system and leach field and therefore, creates a hardship. Atty. Nicosia went on to say that they would need conservation approvals due to the proximity of the pond. Finally, he submitted four letter's of support from abutters at 43 Flint Rd., 1 Upton Dr., 22A Flint Rd., and 10 Upton Dr. There were no other abutters present to speak for or against this project.

C. Mechalides: Motion to close the public portion of the hearing.

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- The Board stressed that the building height should not exceed 36'.
- The Board was pleased with the abutter support and noted that their have been similar improvements in that area, therefore, making this project conform to the neighborhood.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: Must also seek Conservation approvals

Conservation Commission: Filing with Conservation required; 100 year flood plain appears to cover entire lot.

Planning Board: The plan has a certification statement that says it is “not” within a flood hazard area as defined by the 2010 mapping. The 100-year elevation is 123.5', and the work is proposed at 127' at its lowest point. No Planning Board action is required.

Board of Health: The septic system is limited to 3 bedrooms. Any addition of rooms will require a Title 5 bedrooms deed restriction.

Sewer Dept.: None

Fire Dept.: None

Highway Dept.: None

Tax Collector: None

C. Mechalides: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for 47 Flint Rd. Rd. from certain dimensional requirements in an R-1 Zone.

J. Polin: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

2.12.50 Table of Standard Dimensional Requirements; R-1 Zone (65,000s.f. min. lot area; 200 ft. frontage; 30 lin. ft. front, side & rear yard; not to exceed 2 ½ stories at 36 lin. ft.).

Motion to **APPROVE**; Assessors Map 20A, Parcel 38, Lot 0 request for a **Variance** for requirements of Zoning By-Laws for lot size in an R-1 Zone, from required 65,000 sq. ft. to 33,500 sq. ft. (31,500 sq. ft. of relief) on plot plan dated 4/9/14 by Chris Mechalides, seconded by Joe Polin.

5-0, Motion to APPROVE – unanimous

Chris Mechalides	AYE
Claire Cloutier	AYE
Scott Bordeleau	AYE
Joe Polin	AYE
Cheryl Bradley	AYE

Motion to **APPROVE**; Assessors Map 20A, Parcel 38, Lot 0 request for a **Variance** for requirements of Zoning By-Laws for side yard setback in an R-1 Zone, from required 630 ft. to 16.9 ft. (13.1 ft. of relief) not to exceed a maximum building height of 36' on plot plan dated 4/9/14 by Chris Mechalides, seconded by Joe Polin.

5-0, Motion to APPROVE – unanimous

Chris Mechalides	AYE
Claire Cloutier	AYE
Scott Bordeleau	AYE
Joe Polin	AYE
Cheryl Bradley	AYE

Special Permit pursuant to 2.15.22 & 2.15.24 of the Zoning By-Law for renovation and alteration of a pre-existing non-conforming dwelling in an R-1 Zone. New 26' x 35.5' 2-story addition to be built in accordance with the plans submitted with the request.

2.15.22 Changes, Extensions and Alterations - A nonconforming structure or use may be changed, extended or altered, provided that in each case the Board of Appeals finds that such change, extension or alteration is not substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use.

2.15.24 Residential Dwellings – A single or two family dwelling may be altered, reconstructed, extended or structurally changed if the alteration, reconstruction, extension or structural change does not increase any portion(s) of the existing nonconforming nature of said structure without applying for a special permit before the Zoning Board of Appeals provided, however, any increase in the height of the structure or any increase to the non-conforming nature of the structure shall require a special permit from the Zoning Board of Appeals pursuant to the provision of M.G.L. C.40A, S.6.

C. Mechalides: Motion to issue a Special Permit under Section 2.15.22 & 2.15.24 of the Tyngsborough Zoning Bylaws for 47 Flint Rd. to construct a 26' x 35.5' 2-story addition.

S. Bordeleau: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

Motion to **APPROVE**; Assessors Map 20A, Parcel 38, Lot 0 request for a **Special Permit** under Section 2.15.22 and Section 2.15.24 of the Zoning By-Laws to construct a 26' x 35.5' 2-story addition with approved setbacks as shown on plot plan dated 4/9/14 by Chris Mechalides, seconded by Scott Bordeleau.

5-0, Motion to APPROVE – unanimous

Chris Mechalides	AYE
Claire Cloutier	AYE
Scott Bordeleau	AYE
Joe Polin	AYE
Cheryl Bradley	AYE

Public Hearing #4

125-135 Middlesex Rd. (M21, P14, L0 & L1) – Request for a Comprehensive Permit pursuant to Chapter 40B of the Massachusetts General Law, and the Tyngsborough Zoning By-Laws Section 1.13.23 for the development of a residential housing community that will contain 66 units of residential housing on an 8.3 acre site to be named “Tyngsboro Crossing”. *Advertised in the Lowell Sun Thursday February 27, 2014 and Thursday March 6, 2014. Continued from April 10, 2014 (Please note that a letter requesting a continuance to the June 12, 2014 meeting was received 5/1/14 from the applicant for this hearing.)*

S. Bordeleau: Motion to accept the applicant’s request to continue this hearing until June 12, 2014 at 6:30pm

C. Bradley: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

AMINISTRATIVE

1. **Minutes:** Some revisions are still required to the minutes from April 10, 2014. Therefore, they will be tabled until the June 12, 2014 meeting.
2. **New Business:**
 - Next meeting is scheduled for June 12, 2014

ADJOURNMENT

7:20pm

C. Mechalides: Motion to adjourn

S. Bordeleau: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, ZBA Administrative Assistant